

Message Text

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67

ACTION L-03

INFO OCT-01 EUR-12 ISO-00 SCA-01 JUSE-00 SCS-03 DODE-00

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R 221642Z OCT 75

FM AMEMBASSY OTTAWA

TO SECSTATE WASHDC 7885

LIMITED OFFICIAL USE OTTAWA 3997

E.O. 11652: N/A

TAGS: PFOR, CPRS, CA

TAGS: EXTRADITION- JOHN PATRICK O'SULLIVAN

REF: A. DEPT'S 247071; B. HUMMER/GAIDUK TELECON 10/22/75

FOR HUMMER FROM GAIDUCK

1. EMBASSY HAS SENT NOTETO EXTAFF, INFO CC GOC JUSTICE,
AS PER REF A.

2. PERTINENT EXCERPTS GOC JUSTICE CRIMINAL LAW SECTION
LETTER (ROGER LECLAIRE TO GAIDUCK) QUOTED HERewith AS FOLLOWS:

"THE DOCUMENTS WHICH YOU TRANSMITTED SOME TIME
AGO WERE STUDIED BY A MEMBER OF THE CONSTITUTIONAL
AND INTERNATIONAL LAW SECTION OF THIS DEPARTMENT.
THE OPINION RENDERED ON AN INFORMAL BASIS IS THAT THIS
IS A CASE WHERE AN APPLICATION FOR EXTRADITION WOULD
BE APPROPRIATE. OBVIOUSLY THERE IS LITTLE OR NO
LAW ON WHICH TO PREDICT THE OUTCOME OF THE JURISDIC-
TIONAL ISSUED WHICH ARE CERTAIN TO BE RAISED, BUT
THESE ARE ARGUABLE ISSUES WHICH SHOULD BE
LEFT TO THE COURTS.

"IN ADDITION, THE MATERIALS SO FAR PROVIDED
RAISE A FEW QUESTIONS WHICH MIGHT BEST BE CLEARED
UP PRIOR TO THE SUBMISSION OF THE AUTHENTICATED
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DOCUMENTS.

"THE DECISION" OF THE U.S. ARMY COURT OF
MILITARY REVIEW INDICATES THAT ONE OF THE JUDGES
WAS ABSENT. IT IS OUR VIEW THAT THIS "ABSENCE"
SHOULD BE CLARIFIED OR EXPLAINED AS IT WILL ALMOST
CERTAINLY BE RAISED AT THE EXTRADITION HEARING.

"THE CHARGES ON WHICH THE EXTRADITION REQUEST
IS MADE SHOULD BE SET OUT. CLEARLY THE 1889
TREATY PROHIBITS PUNISHMENT FOR THE CONVICTION
ON THE CHARGE OF DESERTION UNDER ARTICLE 86 OF
THE UNIFORM CODE OF MILITARY JUSTICE. I HOPE THAT
THESE INFORMAL COMMENTS ARE OF ASSISTANCE TO YOU."

3. FYI- ATTORNEY JANICE COCHRANE HAS NOW REPLACED
LECLAIRE AS GOC JUSTICE DEPARTMENT'S EXTRADITION COUNSEL.
PORTER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: EXTRADITION, MURDER
Control Number: n/a
Copy: SINGLE
Draft Date: 22 OCT 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: SmithRJ
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975OTTAWA03997
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750367-0595
From: OTTAWA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19751029/aaaaazhl.tel
Line Count: 78
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: SmithRJ
Review Comment: n/a
Review Content Flags:
Review Date: 06 MAY 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <06 MAY 2003 by ShawDG>; APPROVED <02 OCT 2003 by SmithRJ>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: n/a
TAGS: CPAS, US, CA, (OSULLIVAN, JOHN PATRICK)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006